

Minutes of a Regular Meeting

Approved 10/14/04

Town of Los Altos Hills PLANNING COMMISSION

Thursday, September 23, 2004, 7:00 p.m.
Bullis School Multi-Purpose Room, 25890 Fremont Road
cc: Cassettes (2) #11-04

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

The Planning Commission regular meeting was called to order at 7:00 p.m. in the Bullis School Multi-Purpose Room.

Present: Chairman Kerns, Commissioners Collins, Clow & Cottrell

Absent: Commissioner Mordo

Staff: Carl Cahill, Planning Director; Steven Mattas, City Attorney; Debbie Pedro, Assistant Planner; Lani Smith, Planning Secretary

2. PRESENTATIONS FROM THE FLOOR-none

3. PUBLIC HEARINGS

MOTION SECONDED AND PASSED BY CONSENSUS: Motion by Commissioner Clow, seconded by Commissioner Cottrell and passed by consensus to reverse the order of the public hearings to allow time for the City Attorney to be present for the Lands of Abraham.

- 3.2 LANDS OF BURGER, 13193 La Paloma Road (103-04-ZP-SD-GD); A request for a Site Development Permit for a 1,000 square foot pool and spa, removal of three (3) heritage oak trees, basement modification, fence, and landscaping. (staff-Debbie Pedro)

Staff had nothing further to add to the report. Discussion ensued regarding the three heritage oak trees to be removed plus the one tree that was removed when the house was built (total of four). The exact location of the three trees were clarified.

OPENED PUBLIC HEARING

Bill Burger, applicant, stated that there was always only three trees to be removed. The north east tree was actually two trees growing together. He came to Town Hall last October with an arborist report for approval to remove that tree which was approved. Their objective is to replace the damaged trees with three trees each. He felt that the multi-oak tree can be saved and his objective would be to move it now and relocate it this fall when the weather conditions are optimal. The plans indicate the nine replacement trees and none will impact any ones views.

Rudolph Alfinito, 25870 Westwind Way, 30 year resident, addressed concerns regarding the Burger residence now under construction, in particular, the proposed 1,000 square foot pool. He provided photographs of his residence which show how the Burgers residential construction affected the inner wall of his master bedroom closet which started with the construction of the Burger house. He stated that they have lateral and vertical soil movement noting any construction should be considered and reviewed very carefully. To minimize the disturbance of land, the proposed location of the pool should be on the easterly side of the house rather than the proposed north side as shown on the grading map. He further discussed his objections to the six foot high wall which will wall him in like a prison. He provided a photograph taken from his master bedroom to illustrate the height of the proposed wall/fence. This will block his view from the master bedroom. His house was built in 1964. Piers all the way around the house were constructed 15 years ago. A three foot high wall should be sufficient for the Burgers. A six foot wall, proposed on the property line, would just wall him in like a prison. In conclusion, he stated he had no problems with the trees.

Discussion ensued regarding the wall/fence which meets the code and the Commission having the discretion to require a change in materials or a reduction in height.

Sandy Humphries, Environmental Design Committee, stated the plan indicates that the wall on the north end of the property is not at the 30 foot setback. The Planning Director stated that there are no 30 foot setback requirements for retaining walls, fences, rock walls, etc. She was concerned that there would be two 6 foot walls, one on top of the other. It also takes away the green belt effect that you normally have between properties. She questioned the accuracy of the stated height of the two walls.

Bill Burger referred to the previous speakers comments regarding the north end of the property stating the retaining wall there is set back from the property line. He tried to keep the retaining wall as low as they possibly could. In the area where Mr. Alfinito's house is generally located, it is 5 feet or less and it does conform to the plans provided. The retaining wall is in excess of 10 feet from the property line. Their objective with the fence is to have separation and isolation from his neighbor. He choose the concrete form pre-colored type of fence because he can install it without going onto his neighbor's property and it will look good initially on both sides when installed and he wanted something permanent. The pool area is the only private area on the lot and the only area where he is proposing a solid fence. He discussed the history of the project which included a signed agreement drafted by an attorney that he and Mr. Alfinito negotiated and signed last October 21st. Part of that agreement was that Mr. Burger move his house 10 feet to the south as an accommodation to Mr. Alfinito. He also asked for and received at that time Mr. Alfinito acknowledging Mr. Burger's right and his obligation to not interfere with his efforts to build a proper fence between the two properties. The Commission reviewed the document, in particular, #2, stating "Alfinito acknowledges that Burger has the right to install a new boundary fence as near as possible to the common boundary line between the two above referenced properties, taking into account trees that are in place". Mr. Burger is only asking for what people normally have between their properties. Also, he felt Mr. Alfinito's pictures did not characterize the situation. He also noted that when he first started the project, you could not even see out of

Mr. Alfinito's bedroom window. Before they even had approval to build the house, his neighbor's landscaping was so over grown you could hardly see his house from Mr. Burger's property in the area of question. Mr. Alfinito started cutting down everything and removed shrubs on the Burger property to try to establish that he had a view. The intent was to try to prevent the Burgers from building the house. This is why he wants a proper barrier between the properties.

Mr. Alfinito reiterated his concerns for the proposed 6 foot wall.

CLOSED PUBLIC HEARING

Commissioner Clow felt the applicant was being very reasonable with the pool placement and the fence which was agreed to by the neighbor (a 6 foot fence is reasonable). Commissioner Cottrell felt the applicant was in the right and should be able to build a 6 foot fence. Commissioner Collins felt the applicant does have the right to build a 6 foot fence but unfortunately in this case it is in the view of his neighbor's bedroom window. Chairman Kerns agreed with previous comments. He wished people could work out their differences but in this situation there is much history and the applicant is within his rights requesting a 6 foot fence on his property. He supports the application and the change to condition #3, changing "12" to "9" oak trees and to relocate one of the trees per their request.

MOTION SECONDED AND PASSED: Motion by Commissioner Cottrell and seconded by Commissioner Clow to approve a Site Development Permit for a 1,000 square foot pool and spa, removal of two (2) heritage oak trees, basement modification, fence, and landscaping, with the recommended condition of approval with changes/additions to condition #3, "install nine (9) oak trees in three groupings of three...); and adding that the multi-trunk oak (tree #2) shall be removed and replanted on the property at a location selected by the applicant, Lands of Burger, 13193 La Paloma Road.

AYES: Chairman Kerns, Commissioners Collins, Cottrell & Clow
NOES: None
ABSENT: Commissioner Mordo

This approval is subject to a 23 day appeal period.

- 3.1 LANDS OF ABRAHAM, 12831 Viscaino Road (177-04-ZP); A request for a Site Development Permit for a 89-foot retractable antenna tower with a 17 foot mast. (staff-Carl Cahill)

The Planning Director introduced this item by reviewing the report. He noted that the City Attorney was present to help the Commission sort out Federal rule interplay with local rules and discretion. They had considered in the process of reviewing the antenna the idea of partial landscape screening as in the case of Mr. Fenwick's 85 foot antenna that also cranks up and down which is partially screened with trees. But in this case, if you try to plant trees to screen the antenna you will be blocking more of the neighbors view up hill. This is why in the

conditions of approval they did not recommend additional landscaping. Staff is not saying that the Commission has to approve 106 foot antenna but they have to make reasonable accommodations for the proposal. Regarding other antennas in Town, it was noted that they have not tried to regulate the hours of operation although it would be a possibility in this case which would constitute a reasonable accommodation.

Steven Mattas, City Attorney, stated that what the law requires is that you look at each application with a view of reasonably accommodating the application. Commissioner Clow asked if a 40 foot antenna would be considered reasonable. Mr. Mattas felt the Commission should consider, based on all the information they have before them, coming to a reasonable accommodation. It would be premature to come to a decision based only on the staff report alone although a 40 foot antenna would be okay.

Commissioner Kerns asked if they have ever allowed an antenna mass within a setback on properties. The Planning Director responded NO. There was one case where they required someone to remove an antenna from out of the setback. Commissioner Kerns noted that this antenna has elements on top of it that extend out a certain distance. Do the elements need to be out of the setback or is it only the mast that needs to be out of the setback? The Planning Director stated that if they view the antenna as a structure, it should not encroach into a setback at any point, even the antenna itself. It was noted that the height is known but they do not know how far the antennas extend.

Commissioner Cottrell asked if there were any regulations relating to transmissions from an antenna that might interfere with someone's TV, etc. The Planning Director noted that FCC regulates those interference issues and there is an amateur radio association that helps monitor and attempt to resolve those conflicts.

Steven Mattas noted that the standards of operation are regulated by Federal law.

OPENED PUBLIC HEARING

Jim Abraham, 12831 Viscaino Road, prepared a power point presentation covering the following subjects: building site; amateur radio operator for 39 years holding the highest license obtained in amateur radio; community service involvement; Town volunteer chairing and a member of many committees; amateur radio activities; reasons for antenna including emergency communication needs; description of the 89 foot tower with a 17 foot mast with attached antennas; safety considerations; wind loading capabilities of tower; antenna performance; no encroachment within setbacks; simulated pictures of the tower and antenna from different views of height; antenna height VHF/UHF ranges; view considerations for 12692 La Cresta Drive locating the antenna as far as possible to the southwest; retractable antenna; boom on the largest antenna is approximately 45 feet wide (20 feet by 40 feet long); aerial view of the site; and indicating the proposed antenna location. He noted 20 years ago before the trees were removed, the view of the antenna would not have been an issue for Mr. Yu. He felt the complaints from neighbors regarding this project were unmerited. He further discussed his efforts to minimize the negative effects by locating the antenna to provide the least visual disturbance to the

neighbors, lowering the retractable tower when not in use, and the expense of maintenance. He further discussed State and Federal laws regarding PRB-1 and FCC requirements. You will hear the neighbors make reference to a case *Boscher versus the Township of Algoma* indicating an example why PRB-1 is not effective. He felt this will be a poor case to use as an example. There are other Federal cases that have been heard since the Algoma case, one of best examples was by a Judge in a southern district in Texas. The judge wrote a lengthy decision, citing many cases when rendering his decision. What comes through in court decision after court decision is that it must accommodate reasonable amateur communications and to represent the minimum practical regulation to accomplish the local authority legitimate purpose. He concluded by referring to RM 8763, November of 1999, stating that the FCC reaffirms that the very least regulation necessary for the welfare of the community must be the aim of these regulations so that such regulations will not impinge on the needs of the operator to engage in amateur communications.

Chairman Kerns questioned the hours of operation asking if the applicant would be receptive to some limitations. Mr. Abraham indicated he would not want to be restricted. He indicated he would, on average, be using the antenna at its raised height a few hours per day plus a few hours in the evening. Like most hobbies, you run hot and cold depending of the time of year, etc.

Rick Ellinger, 28520 Matadero Creek Lane, is the emergency coordinator for Los Altos Hills. Along with other volunteers, provide emergency communication. Mr. Abraham is actually assigned as an assistant emergency coordinator. The Town has many volunteers. Mr. Abraham's antenna is a non-commercial interest. Since the Town Hall is in a low area, in an emergency situation or drill, he actually dispatches volunteers to Mr. Abraham's house where they try to communicate with the County. Long distance communication is impeded by the hills. He felt it was difficult to mitigate a tower and make it disappear. He also felt the earthquake risk was more significant in Los Altos Hills and they expect an isolation situation here so that is why the need for HF that is this style of antenna rather than VHF and UHF communication. In terms of staffing, there are 58 licensed hams in Town although it is clear they do not have enough cover the neighborhood much less carry on long distance communication. He further discussed other Los Altos Hills property owners who have antennas. His personal tower is 55 feet when up and 26 feet when down. As a mitigation measure he was willing to remove his tower in support of the proposed Abraham tower installation as Abraham is in a more strategic location then he is. He realizes that it is a very personal issue for neighbors living by the tower. He asked that they verify that the antenna cannot fall down and hurt anyone or any property, verify it will not bother airplanes, requesting support of the project. He further discussed cell sites with continuous transmissions versus antennas.

Ed Hayes, 26656 Purissima Road, also an amateur radio operator, was in favor of the application. He felt that the applicant is committed to the program. He has taken all the right steps and he was impressed with the presentation and the amount of money he is going to spend to mitigate any impact to his neighbors and still provide a service which will benefit everyone in an emergency. He encouraged approval.

Ernest Solomon, 27500 Elena Road, asked how the antenna would be raised during an earthquake (response-has an emergency generator). As the Director of the Purissima Water District, he noted that the District and the Town are in negotiations regarding lease arrangement for an antenna on their La Cresta tank. He asked how this proposed antenna may impact the La Cresta tank or visa versa or is the La Cresta antenna still needed.

Mr. Abraham responded that the antenna is still needed. They have found in previous drills that in spite of having the repeater there, they still run out of communication medium as the repeater is saturated with people talking back and forth on it. If there was an emergency, they would need more capability to communicate. The only way to provide this is to achieve enough height to get into the west part of Town.

Mr. Solomon continued asking if there was some mechanism so that District operations personnel can be notified of an earthquake or other emergencies which could impact water supplies. Mr. Abraham felt this could be coordinated through the ham operators relaying information they receive from the Town's staff and the emergency operations center, communicating directly to Purissima Water District. The goal of the emergency communication committee is to serve the Town and the residents.

Richard Jones, 12666 La Cresta Drive, stated he was not opposed to this antenna but there are some conditions that are lacking such as no lights on the antenna, no commercial use, and no unanticipated load on the power distribution grid. He asked if this project is going to involve any increase in development area as he understood that in 1993 it was determined that the property was 3,575 square feet over the MDA. If the project is going to add any additional development area, whatever is added should be reduced elsewhere on the property. The Planning Director noted that the tower footings are generally not counted as development area and if it did it would be 36 square feet which is not the main issue. Mr. Jones continued stating he can see the top 30 feet of the 40 foot antenna from his property as well as his neighbor's.

Jim Waschura, 12658 La Cresta Court, felt it was the Planning Commission's responsibility to protect neighbors in this situation. He felt the neighbors would be harmed by this project. He will see this tower from his front and back yards. Currently he has another 50 foot tower on the other side of his property and has not grown accustomed to it and this current project will be 2.5 times higher than the story pole indicates. He noted that the top of the antenna placed on the top of the proposed tower would not even fit into the multi-purpose room. PRB-1 does not guarantee any particular amateur the right to put up any particular type of antenna. If no suitable compromise can be worked out with the particular amateur, his request for an antenna can be rejected. He investigated the Bosscher versus Algoma Township proceedings, providing the following quotes : (1) The language of PRB-1 itself confers only a limited Federal preemption, and promotes the Federal interest in amateur radio operations rather than any individual operator's right to erect the antenna of his or her choice. (2) Both the text of PRB-1 and the cases applying it have roundly dismissed the notion that an amateur radio operator is entitled to a tower sufficient to enable him to engage in any type of communication he wishes to engage in. (3) Application of this reasonable accommodation standard does not require the city to allow the amateur to erect any antenna he desires. (4) Given that plaintiff is not entitled to any tower he

desires, the proper inquiry of this Court is whether the Algoma Township Planning Commission, in the application of its ordinances, provided for the reasonable accommodation of amateur radio communications. The Commission was not under any obligation to approve the request, but only to make a reasonable effort to accommodate it. The Algoma Township Planning Commission accommodated reasonably plaintiff's amateur radio desires by carefully considering the relevant law, offering compromise solutions, ordering an independent assessment of the application, and making detailed findings of its reasons for denying the application. In conclusion, he stated that the proposed 106 foot antenna/tower would affect many Los Altos Hills residents adversely perhaps even more than the required 500 foot radius. It is a legitimate purpose of the Planning Commission to protect aesthetics, views, and home values. The Town regulates the height of homes, regulates outdoor lighting, obstruction of views, tree trimming, etc. These regulations create high property values and discourages one resident from creating unharmonious aesthetics that affect other residents. He stated that the Planning Commission does have the authority to regulate the proposed antenna tower.

Commissioner Clow asked if a compromise where the antenna could be extended at night, during an emergency and maybe once a year for a drill and otherwise during the day time be in a retract position would meet Mr. Waschura's requirement. Mr. Waschura, felt, as a part of good negotiations, a compromise is necessary. He did not feel it was important, as a Town, to accept any height any amateur radio operator desires just to have late night chats with Australia.

Lawrence Weiland, 12680 La Cresta Drive, in 1960 he and his wife bought their property, building a house directed towards the view. He can now see that a man's hobby is about to destroy a part of his view. This is not fair. It would appear that you can have a much shorter antenna and still get out messages during an emergency. He felt that the applicant's hobby is impinging on his privacy and the value of his property.

David Gilmour, 26010 Torello Court, has served as the vice-chair of the Los Altos Hills emergency communications committee with Mr. Abraham for the last year. He stated that Jim and his service to the Town has selflessly given his time and equipment and a great deal of his efforts to lay the foundation for protecting the people in Town in the event of an emergency. He felt that the line between his hobby and his public service has been one that has been blurred in favor of the Town. He does not draw a line between his own work and that of the public. He requested support of the proposed project.

New speaker, felt if this service is so important perhaps the antenna can be placed at the new Town Hall where it would serve the Town, not just a hobby.

Ray Egan, 12686 Roble Vinedo, ham radio operator and a resident since 1965. His property is on the ridge across from Concepcion Road from Jim's house. If you look for the antenna, it is clear you will see it. But those things just disappear in time. The view aspect of this in the long term will not be seen. He also stated he has a 30 foot tower on his property.

Maynard Stevenson, Prospect Avenue, also a member of the emergency committee, voiced support of the project. His neighbor has a tower and eventually he did not even notice it. The public service aspect of this antenna should weigh heavily on the decision. He felt some of the out of control Eucalyptus trees are much more of a view blocker than this antenna.

Adler Yu, 12692 La Cresta Drive, stated he was most effected by this tower. He referred to his letter which is a part of the staff report. He stated that according to Los Altos Hills site development review process, any project should be in harmony with their neighbors. Also special consideration should be given for the protection of the view and ridgelines, hilltops and view corridor. However, Mr. Abraham's request does not match any of the previous statements. He reviewed photos provided indicating affects on views from his property. Even if the tower was 40 to 60 feet in height, he would still be able to see it from his window facing east. He referred to the latest Town Newsletter stating to erect such a object is in conflict with the spirit of the Town. In the past 10 days, he has only seen two balloons for two hours indicating the proposed height of the antenna/tower. The residents have not been properly notified regarding the height and impact of the project. He stated that it just so happens that all adjacent neighbors surrounding the Abraham property belong to minority groups. He felt they have the same equal rights of anyone to enjoy their rights. The proposed project, if approved, will deprive them of their rights. There are two ham radio towers at 12648 La Cresta Drive which should be tall enough to receive any signal around the world and have received much criticism from neighbors. They do not need a third antenna within a one mile distance. There are numerous ways to communicate. The community does not have to suffer for one person's hobby. He strongly opposed this proposal.

Commission Kerns asked Mr. Yu, if approved, did he have a preferred height and a time of operation. Mr. Yu responded even with the antenna at its lowest height, it would still effect his view but 30 or 40 feet might a be reasonable height.

Chung-Jen Ho, 12696 La Cresta Drive, stated his main concern was radiation. Also the interference with the wireless phone communication, and because the structure is huge, it will break the harmonic view of his neighborhood.

James Liu, 12690 La Cresta Drive, new neighbor and shared the concerns of the neighbors. This is a 40 foot wide tower, 89 feet tall. He did not see how anyone could dismiss it or it could blend in with the environment. He agreed with Jim's hobby but perhaps a more reasonable compromise is appropriate. The Town has such strict restrictions regarding building codes, aesthetic value and views, this will not help with the neighbor's property values. Also, you will see this tower from miles around.

Jen Huang, 12815 Viscaino Road, neighbor right below the Abraham property, stated that the antenna is higher than shown in the photos. He viewed the tower stating he would not want the tower either. They should consider the other neighbors and how much this would affect them and find a good compromise that they can all agree on.

Jim Abraham reviewed the location of the Waschura property indicating he would not be effected. He addressed the letters against the proposal (Orton, Siegal, Hirsh, Strom, Tombs, Waschura) who, he felt, had unfounded complaints. Letters of support were from Ed Radlo, Dr. Smithwick, among others. He addressed a few of the issues mentioned. Mr. Jones was concerned with the power grid stating that his equipment does not use very much power. There is no intention of lighting the tower and there will be no commercial use of the tower. He noted that if it became necessary to put obstruction lights on the tower he would agree to reduce the height of the tower below what is required as a condition of approval. Mr. Yu has lived above him for 15 years. He referred to a number of things on that property which have had a negative impact on his property (created fill and putting an addition on his house without a permit). In the spirit of cooperation and compromise he would be willing to agree to keep the maximum height below 63 feet from sunrise to sunset, and bringing the height down one tier. He further discussed radiation concerns which he felt was not an issue.

Mr. Yu voiced concern regarding radiation exposure which was addressed by Mr. Abraham (FCC requirements).

An unidentified speaker asked if the EPA and the environmental impact studies require a new kind on installation and where is the threshold. The City Attorney stated that they would have to identify that and report back to the Commission as they do not have the standards.

Commissioner Kerns suggested moving the location of the antenna down to the lower flat area which would also make the installation easier and lower the antenna height by approximately 10 feet. Mr. Abraham did not feel this was acceptable and the lower location would still impact his neighbor Mr. Yu. Mr. Abraham accepted the suggestion to move the antenna to the lower area, with the elements of the antenna not encroaching into the setbacks, if it is a condition of approval. However, he stated that there has never been a requirement that the elements of an antenna could not overhang a setback line. If this is the case, he would have to move the antenna to the lower site, closer to the house.

Mr. Yu felt there should have been a better representation of the tower height. Mr. Abraham stated that the pole that was put up was in the exact measurement location of the antenna and tower in the fully retracted position.

Commissioner Kerns, for clarification, noted that Mr. Abraham agreed to a 63 foot height between sunrise and sunset asking if that was the top of the mast or the top of the antenna. Mr. Abraham stated the height would be at the top of the mast (the highest point).

CLOSED PUBLIC HEARING

Commissioner Collins had viewed the Abraham and Yu property sites. She felt Jim had demonstrated incredible generosity to the Town and they all appreciated this. However, it does not have a bearing on this case. As far as PBR-1, she was not familiar with it and perhaps it needs to be reviewed further. She noted the significant view impact to Mr. Yu even when the tower was retracted. She felt the tower would be very unfortunate to the neighbors. There are

many down hill neighbors who would not have received a notice but will be impacted by the tower. She is unable to support this project.

Commissioner Cottrell was troubled with this application. He knows that Jim has been of great service to the Town. This project has been presented by many of the ham operators, as being vital to the Town's emergency systems. If this is the case, he would like to see what the emergency plan for the Town is. If the Town is truly concerned about emergency response perhaps they should have an even bigger antenna at the Town Hall. It does not have to be on someone's private property. He has not heard any plan for the use of repeaters in Town. Councilmember Fenwick has an antenna on his property so he could probably cover the west side of the Town. He would like to see the combined coverage of the hams in Town. An earthquake can hit Jim's house as easily as anyone else's. He was not prepared to even accept this application (not enough data) in light of the Town's emergency requirements. He asked what was an appropriate height for an antenna in a neighborhood? He was not clear why 106 feet is necessary. The neighbor above has a problem with viewing this antenna. He is opposed to the height of this antenna which at its highest is higher than Mr. Yu's living area. If they are to compromise, he suggested 40-50 feet maximum in this situation.

Commissioner Clow concurred with the other Commissioners. He was also troubled with this proposal. It would also have a substantial impact on property values of the neighbors. He felt this project was not properly noticed. Typically, you have story poles to indicate what is being proposed. There is a need to let people know what is being proposed. There would probably be four times as many people here if someone had practically put up a 106 foot, 40 foot long structure with orange netting on top so you could see what was being proposed. He was troubled that it was not known if an environmental impact report is needed. He hoped there was a way to just deny the project as proposed. He did not see an justification for public safety as there are other facilities in Town. If they are forced to approve something, they must absolutely require that it be fully retracted during daylight hours. At this point, he would concur with his fellow Commissioners and deny the application.

Chairman Kerns also had concerns. From a legal point of view, he felt they cannot deny the applicant something. The question is reasonable. He suggested moving the antenna down to the flat area on the property, approving the application, having it return to the Commission once it is installed for another public hearing to decide the maximum height. They can regulate the maximum height. If the tower came in under 63 feet maximum total, this would not be heard before the Planning Commission. He felt in order to see what this will look like, you need to put up the antenna.

Steven Mattas noted that this project was properly noticed for the public hearing.

Mr. Abraham asked to restrict height during daylight hours and periods of darkness it could go up to a higher elevation since no one will see it anyway.

MOTION SECONDED, AMENDED AND PASSED: Motion by Commissioner Cottrell and seconded by Commissioner Kerns to approve the request for a Site Development Permit for a 60 foot tower, maximum height day or night, moved to the lower level of the property (10 feet down to the flat area) with the antenna clearing the setback lines, subject to the recommended conditions of approval, Lands of Abraham, 12831 Viscaino Road.

AYES: Chairman Kerns & Commissioners Cottrell
NOES: Commissioners Clow & Collins
ABSENT: Commissioner Mordo

MOTION SECONDED AND PASSED: Motion by Commissioner Collins and seconded by Commissioner Clow to approve the request for a Site Development Permit for a 40 foot tower, maximum height day or night, moved to the lower level of the property (10 feet down to the flat area) with the antenna clearing the setback lines, subject to the recommended conditions of approval, Lands of Abraham, 12831 Viscaino Road.

AYES: Chairman Kerns, Commissioners Collins, Cottrell & Clow
NOES: None
ABSENT: Commissioner Mordo

This approval is subject to a 23 day appeal period.

4. OLD BUSINESS

4.1 Master Path Map-Version #2 of the Draft 2004 Master Path Map, Planning Commission scheduled meetings: Postponed at the Direction of the City Council.

5. NEW BUSINESS

5.1 November Scheduled Meetings-Due to the second Thursday (November 11-Veteran's Day) and fourth Thursday (November 25-Thanksgiving) falling on Holidays, there will be no Planning Commission meetings in November.

6. REPORT FROM THE CITY COUNCIL MEETING

6.1 Planning Commission Representative for August 19th - Commissioner Kerns referred to the minutes of that meeting.

6.2 Planning Commission Representative for September 2nd - cancelled

6.3 Planning Commission Representative for September 16th - Commissioner Clow, reported the following: directed the City Attorney to draft a legal letter to the School District.

6.4 Planning Commission Representative for October 7th - Commissioner Cottrell

6.5 Planning Commission Representative for October 21st - Commissioner Mordo

7. APPROVAL OF MINUTES

7.1 Approval of August 12, 2004 minutes

PASSED BY CONSENSUS: To approve the August 12, 2004 minutes.

8. REPORT FROM FAST TRACK MEETING-SEPTEMBER 14, 2004

8.1 LANDS OF WILLIAMS (ROBERTSON), 13331 Wildcrest Drive (100-04-ZP-SD-GD); A request for a Site Development Permit for a 4,487 square foot new residence (maximum height 27 feet). (staff-Leslie Hopper) Approved with conditions.

9. REPORT FROM SITE DEVELOPMENT MEETING- AUGUST 25 & 31, 2004

9.1 LANDS OF ZATPARVAR, 24801 Prospect Avenue (126-04-ZP-SD); A request for a Site Development Permit for a landscape screening plan. (staff-Angelica Herrera Olivera) Approved with conditions.

9.2 LANDS OF ERNDT & CARSON, 13452 Carillo Lane (149-04-ZP-SD); A request for a Site Development Permit for a landscape screening plan. (staff-Debbie Pedro) Approved with conditions.

9.3 LANDS OF LYTLE, 28000 Kate Drive (158-04-ZP-SD); A request for a Site Development Permit for a 900 square foot pool and spa. (staff-Debbie Pedro) Approved with conditions.

10. ADJOURNMENT

The meeting was adjourned by consensus at 10:23 p.m.

Respectfully submitted,

Lani Smith
Planning Secretary